# EXHIBIT B

From: Antonio Hernandez <a hrenandez@homerbonner.com>

Sent: Wednesday, November 20, 2024 6:10 PM

**To:** Oprison, Chris; Aburos, Tal **Cc:** Kevin Jacobs; Sabrina Serber

**Subject:** RE: Case 1:24-cv-21104-RAR Benessere Investment Group, LLC et al v. Swider et al - User

**Activity Report** 

**Attachments:** Lists of Unique Downloaded Files by Cano, Swider, and Salume from 1-31-2023 to

4-1-2024 - 4862-3974-6045 - 1.xlsx

# **EXTERNAL MESSAGE**

Chris and Tal,

At the Court's instruction, we have reviewed the files downloaded or previewed for those files that we are not currently contesting that DWAC may have an interest in, such that we are not currently seeking you to trace the files or return them. In SDFL24cv21104\_Benessere\_000003, the entries are the following row numbers: 267-270, 299, 337, 343, 477, 485, 495, 499, 665, 1177, 1183, 1189, 1375, 1841-1860, 1867-68, 1895-1901, 1924-25, 1928-29, 1931, 1936, 1939, 1942, 1945, 1948-49, 1954-55, 1959, 1962-63, 1966, 1969-70, 1974-75, 1977-78, 1988-89, 1993-94, 1997-98, 2000, 2003-04, 2007-09, 2011-12, 2017, 2020, 2028, 2031-32, 2035, 2037, 2040, 2043-44, 2049, 2052, 2055, 2058-59, 2063, 2224, 2226, 2229, 2255, 2259-62, 2301-02, 2304, 2354, 2363, 2369, 2723, 2733, 2734, 2741, 2742, 2747, 2749-50, 2753, 2755, 2760-61, 2763, 2787-88, 2803, 2843-50, 2852, 2871, 2937, 2946-63, 2968, 3439-3440, 3531, 3534, 3613, 24619-20, 24632-33, 24784, 24995, 25000-01, 25012-28.

For the sake of clarity and to facilitate your search for the documents, derived from the date in SDFL24cv21104\_Benessere\_000003, we have prepared the attached Excel file containing a list of files and file paths from the Box that were downloaded by Cano, Swider, or Natalie Salume from 1/31/2023 to 4/2/2024 and excluding the above listed files, with duplicates omitted. The first tab of the attached file is limited to the files downloaded by Cano or Swider. The second tab of the attached file is limited to the files downloaded by Natalie Salume.

This email and the attached list is without prejudice to supplementation or amendment based on legal argument regarding access rights or further review of the files. We are designating the attached file as CONFIDENTIAL pursuant to the CONFIDENTIALITY AND PROTECTIVE ORDER entered in this case, ECF No. 40.

Regards,

Tony

Antonio M. Hernandez, Jr.



1200 Four Seasons Tower 1441 Brickell Avenue Miami Florida 33131 P: 305 350 5194 | F: 305 372 2738 ahernandez@homerbonner.com

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From: Oprison, Chris <chris.oprison@us.dlapiper.com>

Sent: Wednesday, November 20, 2024 2:23 PM

To: Antonio Hernandez <ahernandez@homerbonner.com>; Aburos, Tal <Tal.Aburos@us.dlapiper.com>

Cc: Kevin Jacobs <kjacobs@homerbonner.com>; Sabrina Serber <sserber@homerbonner.com>

Subject: RE: Case 1:24-cv-21104-RAR Benessere Investment Group, LLC et al v. Swider et al - User Activity Report

Thanks Tony – will take a look.

From: Antonio Hernandez <a href="mailto:ahernandez@homerbonner.com">ahernandez@homerbonner.com</a>>

Sent: Wednesday, November 20, 2024 1:54 PM

To: Oprison, Chris <<u>chris.oprison@us.dlapiper.com</u>>; <u>tal.aburos@dlapiper.com</u>

Cc: Kevin Jacobs < kjacobs@homerbonner.com >; Sabrina Serber < sserber@homerbonner.com >

Subject: RE: Case 1:24-cv-21104-RAR Benessere Investment Group, LLC et al v. Swider et al - User Activity Report



## **EXTERNAL MESSAGE**

#### Chris and Tal:

As a follow-up and supplement to the below, please see attached the user activity report run showing the activity for every user from the Box Account between November 1, 2022 and April 1, 2024. As before, to avoid affecting the name of the file and as this is in connection with our facilitating your searches for information to respond to discovery, we have not renamed the file as generated by Box or produced it out of a document platform. It will be Bates-stamped SDFL24cv21104\_Benessere\_000003 and is designated in its entirety as CONFIDENTIAL pursuant to the CONFIDENTIALITY AND PROTECTIVE ORDER entered in this case, ECF No. 40.

Regards,

Tony

Antonio M. Hernandez, Jr.



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From: Antonio Hernandez

Sent: Wednesday, November 20, 2024 11:14 AM

**To:** Oprison, Chris <<u>chris.oprison@us.dlapiper.com</u>>; Aburos, Tal <<u>Tal.Aburos@us.dlapiper.com</u>> **Cc:** Kevin Jacobs <<u>kjacobs@homerbonner.com</u>>; Sabrina Serber <<u>sserber@homerbonner.com</u>>

Subject: RE: Case 1:24-cv-21104-RAR Benessere Investment Group, LLC et al v. Swider et al - User Activity Report

Thanks Chris. I'll check that out now.

Regards,

Tony

Antonio M. Hernandez, Jr.



1200 Four Seasons Tower 1441 Brickell Avenue Miami Florida 33131 P: 305 350 5194 | F: 305 372 2738 ahernandez@homerbonner.com

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**From:** Oprison, Chris <<u>chris.oprison@us.dlapiper.com</u>>

Sent: Wednesday, November 20, 2024 11:12 AM

To: Antonio Hernandez <a href="mailto:ahernandez@homerbonner.com">ahernandez@homerbonner.com</a>; Aburos, Tal <a href="mailto:Tal.Aburos@us.dlapiper.com">Tal.Aburos@us.dlapiper.com</a>

Cc: Kevin Jacobs <kjacobs@homerbonner.com>; Sabrina Serber <sserber@homerbonner.com>

Subject: RE: Case 1:24-cv-21104-RAR Benessere Investment Group, LLC et al v. Swider et al - User Activity Report

Thanks Tony but this log is supposed to be from **November 2022** through March 2024, not from January 2023. We agreed to that time period at the hearing. See below excerpt from Transcript:

### Nov. 15 Hr'g Tr. at 78:10-79:19:

MS. ABUROS: So I am not sure if there is anything that needs to be downloaded in this case for purposes of the log. I think I understand that the log that we received from the other side yesterday is just a report from the box account that identifies any activity. So I think we would propose, for purposes of this and streamlining the issues for upcoming mediation, is even going back it does not have to be necessarily from inception on the date that the box was created on June 15 of 2021. I feel like for purposes of now going back to the **November 2002 date** that we agreed on to go back for purposes of discovery until the Defendants no longer had access to the box account, which would be March 20th of 2024. So it would really be a limited subset time period and I think that that may also alleviate opposing counsel's concerns regarding privileged access prior to the time period.

MR. HERNANDEZ: I think that is probably amenable. And I have to see all the list of users, but I think they are being reasonable in bringing the time period much closer to the events –

THE COURT: Okay.

MR. HERNANDEZ: -- on that particular issue. So, again, I mean, there is a limited number of users on this account. It is not, I guess, if I am accusing somebody of taking documents from me, it does not mean that they should be able to get the list of all one thousand employees' access to every document in the company. But, in this case, it is a small entity. So I think that that is probably fine.

THE COURT: Okay. Then I am probably going to compel it.

Can you please provide all user activity for that earlier time period? Thanks

Chris

From: Antonio Hernandez <a hrenandez@homerbonner.com>

Sent: Wednesday, November 20, 2024 9:51 AM

**To:** Oprison, Chris <<u>chris.oprison@us.dlapiper.com</u>>; Aburos, Tal <<u>Tal.Aburos@us.dlapiper.com</u>> **Cc:** Kevin Jacobs <<u>kjacobs@homerbonner.com</u>>; Sabrina Serber <<u>sserber@homerbonner.com</u>>

Subject: RE: Case 1:24-cv-21104-RAR Benessere Investment Group, LLC et al v. Swider et al - User Activity Report



# **EXTERNAL MESSAGE**

# Good morning Chris and Tal:

Please see attached the user activity report run showing the activity for every user from the Box Account between January 31, 2023 and April 1, 2024. As before, to avoid affecting the name of the file and as this is in connection with our facilitating your searches for information to respond to discovery, we have not renamed the file as generated by Box or produced it out of a document platform. It will be Bates-stamped SDFL24cv21104\_Benessere\_000002 and is designated in its entirety as CONFIDENTIAL pursuant to the CONFIDENTIALITY AND PROTECTIVE ORDER entered in this case, ECF No. 40.

We will be forwarding a separate communication identifying specific entries from this file that we contend your clients had no authority whatsoever to download or preview as soon as we finish that process later today. We are also working on an identification of specific entries for files we contend your clients had no authority whatsoever to download or preview that were downloaded or previewed by others at your client's direction. We are separately working to produce the documents by Friday in addition to the materials from Lawgical Insight. Thank you.

Regards,

Tony

Antonio M. Hernandez, Jr.



1200 Four Seasons Tower 1441 Brickell Avenue Miami Florida 33131 P: 305 350 5194 | F: 305 372 2738 ahernandez@homerbonner.com

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From: Antonio Hernandez

Sent: Thursday, November 14, 2024 11:37 AM

**To:** Oprison, Chris <<u>chris.oprison@us.dlapiper.com</u>>; Aburos, Tal <<u>Tal.Aburos@us.dlapiper.com</u>> **Cc:** Kevin Jacobs <<u>kjacobs@homerbonner.com</u>>; Sabrina Serber <<u>sserber@homerbonner.com</u>>

Subject: Case 1:24-cv-21104-RAR Benessere Investment Group, LLC et al v. Swider et al - User Activity Report

Chris and Tal:

Please see attached the user activity report run showing the activity for Eric Swider and Alex Cano from the Box Account since inception through April 1, 2024. To avoid affecting the name of the file and as this is in connection with our facilitating your searches for information to respond to discovery, we have not renamed the file as generated by Box or

# Case 1:24-cv-21104-RAR Document 82-2 Entered on FLSD Docket 04/18/2025 Page 6 of 6

produced it out of a document platform. It will be Bates-stamped SDFL24cv21104\_Benessere\_000001 and is designated in its entirety as CONFIDENTIAL pursuant to the CONFIDENTIALITY AND PROTECTIVE ORDER entered in this case, ECF No. 40.

To the extent you contend any file accessed, previewed, downloaded, or otherwise affected was DWAC's, please so identify it so that it may be analyzed and we can then address such items with the Court, whether tomorrow or in a future hearing. As I have repeatedly asserted, we think there is a distinction between breach of fiduciary duty and unauthorized access under the computer fraud statutes. We expect that you will begin searching and respond to discovery at least based on the files that you do not contend are DWAC's. Please confirm. Thank you.

Regards,

Tony

Antonio M. Hernandez, Jr.



1200 Four Seasons Tower 1441 Brickell Avenue Miami Florida 33131 P: 305 350 5194 | F: 305 372 2738 ahernandez@homerbonner.com

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